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**APPEALS BOARD  
UTAH LABOR COMMISSION**

**SANDRA A. BARKER,**

**Petitioner,**

**vs.**

**WEBER MEMORIAL CARE CENTER,  
INSURANCE COMPANY OF  
NORTH AMERICA, and  
EMPLOYERS REINSURANCE FUND,**

**Respondents.**

**ORDER AFFIRMING  
ALJ'S DECISION**

**Case No. 08-0584**

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Sandra A. Barker asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Trayner's denial of her claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Appeals Board exercises jurisdiction over this motion for review pursuant to §63G-4-301 of the Utah Administrative Procedures Act and §34A-2-801(3) of the Utah Workers' Compensation Act.

**BACKGROUND AND ISSUE PRESENTED**

Ms. Barker claims workers' compensation benefits for a low-back injury she suffered on June 22, 1983, while working for Weber Memorial Care Center ("Weber"). Judge Trayner held an evidentiary hearing and referred the medical aspects of the claim to an impartial medical panel. The panel found that Ms. Barker's injury did not medically cause her current low-back problems.

Judge Trayner accepted the medical panel's opinion and denied Ms. Barker's claim for benefits. Ms. Barker argues that the panel's conclusion was erroneous because it mistakenly found that her low-back problems subsided over a three-year period during which she did not seek treatment for that condition. Ms. Barker also argues that Judge Trayner did not consider all of the evidence presented and that her treating physician's opinion should be given more weight than the medical panel's opinion.

**FINDINGS OF FACT**

Weber employed Ms. Barker as an assistant nurse's aid. On June 22, 1983, Ms. Barker was helping a patient get out of a wheelchair when her legs became tangled with the patient and she heard a pop in her back. Ms. Barker finished her shift, but had difficulty getting out of bed the next morning.

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Ms. Barker consulted with several different physicians about her low-back injury following the accident from November of 1983 to May of 1984. These physicians diagnosed Ms. Barker with stretched muscles and ligaments, low back strain syndrome and chronic low back pain. Then, approximately three years later in April of 1987, Dr. Bean examined Ms. Barker and diagnosed her with central disc syndrome.

In February of 1989, Ms. Barker underwent a laminotomy and discectomy. Dr. Bean opined that Ms. Barker was unable to return to work because of the 1983 accident. Ms. Barker underwent spinal fusion surgery in October of 2000, and surgery for stress incontinence in April of 2004. Ms. Barker was later evaluated by Weber's medical expert, Dr. Swartz, who disagreed with Dr. Bean's conclusion that the work-related accident caused her low back problems.

In light of the conflicting medical opinions, Judge Trayner referred the claim to an impartial medical panel. The panel found that Ms. Barker had recovered from the low-back injury she suffered while working for Weber and that her current low-back problems were the result of post-surgical deterioration and persistent symptom magnification unrelated to the accident.

**DISCUSSION AND CONCLUSIONS OF LAW**

To prevail on her claim for permanent total disability benefits, Ms. Barker must demonstrate that her current low back problems were medically caused by the accident at Weber. The medical panel concluded that Ms. Barker's current low back problems are unrelated to that accident.

Section 34A-2-601(2)(e) of the Utah Workers' Compensation Act provides the following:

- (i) The administrative law judge may base the administrative law judge's finding and decision on the report of (A) a medical panel...
- (ii) Notwithstanding subsection (2)(e)(i), an administrative law judge is not bound by a report described in subsection (2)(e)(i) if other substantial conflicting evidence in the case supports a contrary finding.

Ms. Barker contends that the medical panel's findings are erroneous because it mistakenly interpreted a three-year gap in her medical history as evidence that her low-back injury resolved. Ms. Barker argues that she continued to have pain in her low back during that three year period until she began consulting with Dr. Bean, and that Dr. Bean's opinion should be given more weight than the panel's findings. Finally, Ms. Barker also claims that Judge Trayner did not consider all of the evidence in the record because certain portions of her medical history were not listed in the Order or the panel's report.

The Appeals Board does not accept Ms. Barker's premise that not listing every aspect of an individual's medical history means certain aspects were not properly considered. The medical panel

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was provided with all of Ms. Barker's medical records. It is part of the panel's purpose to determine which of those medical records are relevant. The medical panel's findings are well-reasoned and plainly based on a thorough consideration of all the evidence in the record. Furthermore, the panel's opinion is persuasive because it is impartial in this matter and has the benefit of collegial review of Ms. Barker's medical history. The panel also considered the opinions of the parties' medical experts, including Dr. Bean, in reaching its own opinion.

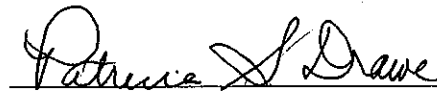
The Appeals Board finds that Judge Trayner properly based her finding and decision on the medical panel's report. For these reasons, the Appeals Board accepts the panel's conclusions and concurs with Judge Trayner's determination that Ms. Barker is not entitled to permanent total disability benefits because her current low back problems were not medically caused by her work-related injury.

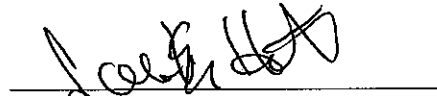
**ORDER**

The Appeals Board affirms Judge Trayner's decision.

Dated this 22<sup>nd</sup> day of January, 2010.

  
Colleen S. Colton, Chair

  
Patricia S. Drawe

  
Joseph E. Hatch

**IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.**